

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
THE CITY OF ROSEVILLE
PROVIDING FOR PROJECT WATER SERVICE
FROM THE AMERICAN RIVER DIVISION

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4 Central Valley Project, California
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6 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES

7 AND

8 THE CITY OF ROSEVILLE
9 PROVIDING FOR PROJECT WATER SERVICE
10 FROM THE AMERICAN RIVER DIVISION
11

12 THIS CONTRACT, made this ____ day of _____, 200_, in pursuance
13 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,
14 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and
15 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, June 21, 1963 (77 Stat.
16 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, and Title
17 XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as
18 Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as
19 the United States, and THE CITY OF ROSEVILLE, hereinafter referred to as the Contractor, a public
20 agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof,
21 with its principal place of business in California;

22 WITNESSETH, That:

23 EXPLANATORY RECITALS

24 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
25 Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control,
26 irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration,
27 generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of

1 waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River
2 and their tributaries; and

3 [2nd] WHEREAS, the United States constructed Folsom Dam and Reservoir, hereinafter
4 collectively referred to as the American River Division facilities, which will be used in part for the
5 furnishing of water to the Contractor pursuant to the terms of this Contract; and

6 [3rd] WHEREAS, the rights to Project Water were acquired by the United States pursuant to
7 California law for operation of the Project; and

8 [4th] WHEREAS, the Contractor and the United States entered into Contract No. 14-06-
9 200-3474A, dated September 9, 1967 hereinafter referred to as the Existing Contract, which
10 established terms for the delivery to the Contractor of Central Valley Project Water from the
11 American River Division from January 1, 1971 through December 31, 2011; and

12 [5th] Omitted; and

13 [5.1] Omitted; and

14 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of interim
15 and existing long-term Central Valley Project Water service contracts following completion of
16 appropriate environmental documentation, including a programmatic environmental impact statement
17 (PEIS) pursuant to the National Environmental Policy Act analyzing the direct and indirect impacts
18 and benefits of implementing the CVPIA and the potential renewal of all existing contracts for
19 Project Water; and

20 [6.1] WHEREAS, the Contracting Officer and the Contractor are entering into this contract
21 pursuant to Subsection 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA); and

22 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
23 environmental review necessary to provide for long-term renewal of the Existing Contract; and

1 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
2 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the
3 State of California, for water service from the Central Valley Project; and

4 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
5 its obligations under the Existing Contract; and

6 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
7 Officer that the Contractor has utilized the Central Valley Project Water supplies available to it for
8 reasonable and beneficial use and/or has demonstrated projected future demand for water use such
9 that the Contractor has the capability and expects to utilize fully for reasonable and beneficial use the
10 quantity of Project Water to be made available to it pursuant to this Contract; and

11 [11th] WHEREAS, water obtained from the Central Valley Project has been relied upon by
12 urban areas within California for more than fifty years, and is considered by the Contractor as an
13 essential portion of its water supply; and

14 [12th] WHEREAS, the economies of regions within the Central Valley Project, including the
15 Contractor's, depend upon the continued availability of water, including water service from the
16 Central Valley Project; and

17 [12.1] WHEREAS, in the CALFED Programmatic Record of Decision, dated August 28,
18 2000, the United States and the State of California adopted a general target of continuously improving
19 Delta water quality for all uses. The CALFED Agencies' target for providing safe, reliable, and
20 affordable drinking water in a cost-effective way, is to achieve either: "(a) average concentrations at
21 Clifton Court Forebay and other southern and central Delta drinking water intakes of 50 ug/L bromide
22 and 3.0 mg/L total organic carbon, or (b) an equivalent level of public health protection using a cost-
23 effective combination of alternative source waters, source control and treatment technologies;" and

1 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
2 to pursue measures to improve water supply, water quality, and reliability of the Project for all Project
3 purposes; and

4 [13.1] WHEREAS, the Contractor and the water users in its Service Area have improved and
5 will continue to improve water use efficiency through water conservation, water reclamation, and
6 other Best Management Practices; however, implementing these measures have reduced and continue
7 to reduce the ability of the Contractor and the water users in its Service Area to withstand a Condition
8 of Shortage; and

9 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
10 provide for reliable Central Valley Project Water supplies; to control costs of those supplies; to
11 achieve repayment of the Central Valley Project as required by law; to guard reasonably against
12 Central Valley Project Water shortages; to achieve a reasonable balance among competing demands
13 for use of Central Valley Project Water; and to comply with all applicable environmental statutes, all
14 consistent with the legal obligations of the United States relative to the Central Valley Project; and

15 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
16 relationship in order to achieve their mutual goals; and

17 [15.1] WHEREAS, the Contractor is a signatory to the Water Forum Agreement, dated April
18 14, 2000, which has the co-equal objectives to (1) provide a reliable and safe water supply for the
19 Sacramento region's economic health and planned development through the year 2030, and (2)
20 preserve the fishery, wildlife, recreational and aesthetic values of the lower American River; and

21 [15.2] WHEREAS, the Contracting Officer is in support of the co-equal objectives of the
22 Water Forum Agreement and intends to work cooperatively with the Contractor to investigate actions
23 that they could take to implement the objectives of the Water Forum Agreement, which, if agreed to,

would be the subject of a separate agreement between them; and

[16th] WHEREAS, the United States and the Contractor are willing to enter into this long-term renewal contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

1. When used herein unless otherwise distinctly expressed, or manifestly incompatible with the intent of the parties as expressed in this Contract, the term:

(a) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(b) "Charges" shall mean the payments required by Federal Reclamation law in addition to the Rates and Tiered Pricing Components specified in this Contract as determined annually by the Contracting Officer pursuant to this Contract;

(c) "Condition of Shortage" shall mean a condition respecting the Project during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract Total;

(d) "Contracting Officer" shall mean the Secretary of the Interior's duly authorized representative acting pursuant to this Contract or applicable Reclamation law or regulation;

(e) "Contract Total" shall mean the maximum amount of water to which the Contractor is entitled under subdivision (a) of Article 3 of this Contract;

(f) "Contractor's Service Area" shall mean the area to which the Contractor is permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto,

1 which may be modified from time to time in accordance with Article 35 of this Contract without
2 amendment of this Contract;

3 (g) "CVPIA" shall mean the Central Valley Project Improvement Act, Title
4 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

5 (h-i) Omitted;

6 (j) "Full Cost Rate" shall mean an annual rate as determined by the Contracting
7 Officer that shall amortize the expenditures for construction properly allocable to the Project
8 Irrigation or M&I functions, as appropriate, of facilities in service including all operation and
9 maintenance deficits funded, less payments, over such periods as may be required under Federal
10 Reclamation law or applicable contract provisions. Interest will accrue on both the construction
11 expenditures and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or
12 from the date incurred in the case of costs arising subsequent to October 12, 1982, and shall be
13 calculated in accordance with subsections 202(3)(B) and (3)(C) of the RRA. The full-cost rate
14 includes actual operation, maintenance, and replacement costs consistent with Section 426.2 of the
15 Rules and Regulations for the RRA;

16 (k-l) Omitted;

17 (m) "Irrigation Water" shall mean water made available from the Project that is
18 used primarily in the production of agricultural crops or livestock, including domestic use incidental
19 thereto, and watering of livestock;

20 (n) Omitted;

21 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water, other than
22 Irrigation Water, made available to the Contractor. M&I Water shall include water used for human
23 use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are

1 kept for personal enjoyment or water delivered to land holdings operated in units of less than five
2 acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of
3 water delivered to any such landholding is a use described in subdivision (m) of this Article;

4 (p) "M&I Full Cost Water Rate" shall mean the Full Cost Rate applicable to the
5 delivery of M&I Water;

6 (q) "Operation and Maintenance" or "O&M" shall mean normal and reasonable
7 care, control, operation, repair, replacement (other than Capital replacement), and maintenance of
8 Project facilities;

9 (r) Omitted;

10 (s) "Project" shall mean the Central Valley Project owned by the United States and
11 managed by the Department of the Interior, Bureau of Reclamation;

12 (t) "Project Contractors" shall mean all parties who have water service contracts
13 for Project Water from the Project with the United States pursuant to Federal Reclamation law;

14 (u) "Project Water" shall mean all water that is developed, diverted, stored, or
15 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance
16 with the terms and conditions of water rights acquired pursuant to California law;

17 (v) "Rates" shall mean the payments determined annually by the Contracting
18 Officer in accordance with the then current applicable water ratesetting policies for the Project, as
19 described in subdivision (a) of Article 7 of this Contract;

20 (w) "Recent Historic Average" shall mean the most recent five-year average of the
21 final forecast of Water Made Available to the Contractor pursuant to this Contract or its preceding
22 contract(s);

23 (x) "Secretary" shall mean the Secretary of the Interior, a duly appointed

1 successor, or an authorized representative acting pursuant to any authority of the Secretary and
2 through any agency of the Department of the Interior;

3 (y) "Tiered Pricing Component" shall be the incremental amount to be paid for
4 each acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

5 (z) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for
6 use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

7 (aa) "Water Made Available" shall mean the estimated amount of Project Water
8 that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer,
9 pursuant to subdivision (a) of Article 4 of this Contract;

10 (bb) "Water Scheduled" shall mean Project Water made available to the Contractor
11 for which times and quantities for delivery have been established by the Contractor and Contracting
12 Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

13 (cc) "Year" shall mean the period from and including March 1 of each Calendar
14 Year through the last day of February of the following Calendar Year.

15 TERM OF CONTRACT

16 2. (a) This Contract shall be effective March 1, 200_, through February 28 (29),
17 20___. In the event the Contractor wishes to renew the Contract beyond February 28 (29), 20__, the
18 Contractor shall submit a request for renewal in writing to the Contracting Officer no later than two
19 years prior to the date this Contract expires.

20 (b) Omitted.

21 (c) This Contract shall be renewed for a period of up to forty years⁺ and thereafter
22 shall be renewed for successive periods of up to forty years each, which periods shall be consistent

⁺~~To be completed consistent with the term agreed upon with other CVP M&I Long Term Renewal Contracts.~~

1 with the then-existing Reclamation-wide policy, under terms and conditions mutually agreeable to the
2 parties and consistent with federal and state law. The Contractor shall be afforded the opportunity to
3 comment to the Contracting Officer on the proposed adoption and application of any revised
4 Reclamation-wide policy applicable to the delivery of Project M&I Water that would limit the term of
5 any subsequent renewal contract with the Contractor for the furnishing of M&I Water to less than
6 forty ~~(40)~~ years.

7 (d) The Contracting Officer shall make a determination 10 years after the date of
8 execution of this Contract, and every 5 years thereafter during the term of this Contract, of whether a
9 conversion to a contract under subsection (c)(1) of Section 9 of the Reclamation Project Act of 1939
10 can be accomplished. The Contracting Officer anticipates that during the term of this contract, all
11 authorized Project construction expected to occur will have occurred, and on that basis the
12 Contracting Officer upon such completion to allocate all costs that are properly assignable to the
13 Contractor, and agrees further that, at any time after such allocation is made, and subject to
14 satisfaction of the conditions set out in this subdivision of this Article, this Contract shall, at the
15 request of the Contractor, be converted to a contract under said subsection (c)(1) of Section 9, of the
16 Reclamation Project Act of 1939, subject to applicable Federal law and under stated terms and
17 conditions mutually agreeable to the Contractor and the Contracting Officer. A condition for such
18 conversion to occur shall be a determination by the Contracting Officer that, account being taken of
19 the amount credited to return by the Contractor as provided for under Reclamation law, the remaining
20 amount of construction costs assignable for ultimate return by the Contractor can probably be repaid
21 to the United States within the term of a contract under said subsection (c)(1) of Section 9. If the
22 remaining amount of costs that are properly assignable to the Contractor cannot be determined during
23 the term of this Contract, the Contracting Officer shall notify the Contractor, and provide the

1 reason(s) why such a determination could not be made. Further, the Contracting Officer shall make
2 such a determination as soon thereafter as possible so as to permit, upon request of the Contractor and
3 satisfaction of the conditions set out above, conversion to a contract under said subsection (c)(1) of
4 Section 9.

5 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

6 3. (a) During each Year, consistent with all applicable State water rights, permits,
7 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this
8 Contract, the Contracting Officer shall make available for delivery to the Contractor 32,000 acre-feet
9 of M&I Water. The quantity of Water Delivered to the Contractor in accordance with this
10 subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this
11 Contract.

12 (b) Because the capacity of the Central Valley Project to deliver Project Water has
13 been constrained in recent years and may be constrained in the future due to many factors including
14 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor
15 actually receiving the amount of Water set out in subdivision (a) of this Article in any given Year is
16 uncertain. The Contracting Officer's most recent modeling referenced in the PEIS projected that the
17 Contract Total set forth in this Contract will not be available to the Contractor in many years. During
18 the most recent five years, the Recent Historic Average of Water Made Available to the Contractor
19 was 31,040 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights and obligations
20 of the parties under any provision of this Contract.

21 (c) The Contractor shall utilize the Project Water in accordance with all applicable
22 legal requirements.

23 (d) The Contractor shall make reasonable and beneficial use of all Project Water or

1 other water furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or
2 in lieu), groundwater banking programs, surface water storage programs, and other similar programs
3 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
4 Contractor's Service Area which are consistent with applicable State law and result in use consistent
5 with Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are)
6 described in the Contractor's Water Conservation Plan submitted pursuant to Article 26 of this
7 Contract; Provided, further, That such Water Conservation Plan demonstrates sufficient lawful uses
8 exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered
9 Water is demonstrated to be reasonable for such uses and in compliance with Reclamation Law.
10 Groundwater recharge programs, groundwater banking programs, surface water storage programs,
11 and other similar programs utilizing Project Water or other water furnished pursuant to this Contract
12 conducted outside the Contractor's Service Area may be permitted upon written approval of the
13 Contracting Officer, which approval will be based upon environmental documentation, Project Water
14 rights, and Project operational concerns. The Contracting Officer will address such concerns in
15 regulations, policies, or guidelines.

16 (e) The Contractor shall comply with requirements applicable to the Contractor in
17 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
18 undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within
19 the Contractor's legal authority to implement. The Existing Contract, which evidences in excess of
20 thirty years of diversions for municipal and industrial purposes of the quantities of water provided in
21 subdivision (a) of Article 3 of this Contract, will be considered in developing an appropriate baseline
22 for the Biological Assessment prepared pursuant to the Endangered Species Act, and any other
23 needed environmental review. Nothing herein shall be construed to prevent the Contractor from

1 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
2 biological opinion or other environmental documentation referred to in this Article.

3 (f) Following the declaration of Water Made Available under Article 4 of this
4 Contract, the Contracting Officer will make a determination whether Project Water, or other water
5 available to the Project, can be made available to the Contractor in addition to the Contract Total
6 under Article 3 of this Contract during the Year without adversely impacting other Project
7 Contractors. At the request of the Contractor, the Contracting Officer will consult with the
8 Contractor prior to making such a determination. If the Contracting Officer determines that Project
9 Water, or other water available to the Project, can be made available to the Contractor, the
10 Contracting Officer will announce the availability of such water and shall so notify the Contractor as
11 soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project
12 Contractors capable of taking such water to determine the most equitable and efficient allocation of
13 such water. If the Contractor requests the delivery of any quantity of such water, the Contracting
14 Officer shall make such water available to the Contractor in accordance with applicable statutes,
15 regulations, guidelines, and policies.

16 (g) The Contractor may request permission to reschedule for use during the
17 subsequent Year some or all of the Water Made Available to the Contractor during the current Year
18 referred to as "carryover." The Contractor may request permission to use during the current Year a
19 quantity of Project Water which may be made available by the United States to the Contractor during
20 the subsequent Year referred to as "preuse." The Contracting Officer's written approval may permit
21 such uses in accordance with applicable statutes, regulations, guidelines, and policies.

22 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
23 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the

1 term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract, during
2 the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its obligations
3 under this Contract and any renewals thereof. Nothing in the preceding sentence shall affect the
4 Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of Article 12 of
5 this Contract or applicable provisions of any subsequent renewal contracts.

6 (i) Project Water furnished to the Contractor pursuant to this Contract may be
7 delivered for purposes other than those described in subdivision (o) of Article 1 of this Contract upon
8 written approval by the Contracting Officer in accordance with the terms and conditions of such
9 approval.

10 (j) ~~Omitted.~~ The Contracting Officer shall make reasonable efforts to protect the
11 water rights necessary for the Project and to provide the water available under this Contract. The
12 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
13 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,
14 however, That the Contracting Officer retains the right to object to the substance of the Contractor's
15 position in such a proceeding; Provided further, that in such proceedings the Contracting Officer shall
16 recognize the Contractor has a legal right under the terms of this Contract to use Project Water.

17
18 TIME FOR DELIVERY OF WATER

19 (4) (a) On or about February 20 of each Calendar Year, the Contracting Officer shall
20 announce the Contracting Officer's expected declaration of the Water Made Available. Such
21 declaration of Project operations will be expressed in terms of both Water Made Available and the
22 Recent Historic Average and will be updated monthly, and more frequently if necessary, based on
23 then-current operational and hydrologic conditions and a new declaration with changes, if any, to the

1 Water Made Available will be made. The Contracting Officer shall provide forecasts of Project
2 operations and the basis of the estimate, with relevant supporting information, upon the written
3 request of the Contractor. Concurrently with the declaration of the Water Made Available, the
4 Contracting Officer shall provide the Contractor with the updated Recent Historic Average.

5 (b) On or before each March 1 and at such other times as necessary, the Contractor
6 shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer,
7 showing the monthly quantities of Project Water to be delivered by the United States to the
8 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting
9 Officer shall use all reasonable means to deliver Project Water according to the approved schedule for
10 the Year commencing on such March 1.

11 (c) The Contractor shall not schedule Project Water in excess of the quantity of
12 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's
13 Service Area or to sell, transfer or exchange pursuant to Article 9 of this Contract during any Year.

14 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
15 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
16 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written
17 revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to
18 the date(s) on which the requested change(s) is/are to be implemented.

19 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

20 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
21 Contract shall be delivered to the Contractor at the outlet from the 84-inch pipeline leading from
22 Folsom pumping plant to ~~the Hinkle Reservoir~~ Wye and any additional point or points of delivery
23 either on Project facilities or another location or locations mutually agreed to in writing by the

Contracting Officer and the Contractor.

(b) Omitted.

(c) The Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless approved in advance by the Contracting Officer.

(d) All Water Delivered to the Contractor pursuant to this Contract shall be measured and recorded with equipment furnished, installed, operated, and maintained by the United States, or other appropriate entity as designated by the Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting Officer shall investigate, or cause to be investigated, the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein. For any period of time when accurate measurements have not been made, the Contracting Officer shall consult with the Contractor prior to making a final determination of the quantity delivered for that period of time.

(e) The Contracting Officer shall not be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, or assigns; (iii)

negligence of the Contracting Officer or any of its officers, employees, agents, or assigns; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated by the United States.

MEASUREMENT OF WATER WITHIN THE SERVICE AREA

6. (a) The Contractor shall ensure that, unless the Contractor establishes an alternative measurement program satisfactory to the Contracting Officer, all surface water delivered for M&I purposes is measured at each M&I service connection. The water measuring devices or water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining and repairing all such measuring devices and implementing all such water measuring methods at no cost to the United States. The Contractor shall use the information obtained from such water measuring devices or water measuring methods to ensure its proper management of the water, to bill water users for water delivered by the Contractor; and, if applicable, to record water delivered for M&I purposes by customer class as defined in the Contractor's water conservation plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude the Contractor from establishing and collecting any charges, assessments, or other revenues authorized by California law. The Contractor shall include a summary of all its annual surface water deliveries in the annual report described in subdivision (c) of Article 26.

(b) To the extent the information has not otherwise been provided, upon execution of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the measurement devices or water measuring methods being used or to be used to implement subdivision (a) of this Article and identifying the M&I service connections or alternative measurement programs approved by the Contracting Officer, at which such measurement devices or water measuring

1 methods are being used, and, if applicable, identifying the locations at which such devices and/or
2 methods are not yet being used including a time schedule for implementation at such locations. The
3 Contracting Officer shall advise the Contractor in writing within sixty days as to the adequacy of, and
4 necessary modifications, if any, of the measuring devices or water measuring methods identified in
5 the Contractor's report and if the Contracting Officer does not respond in such time, they shall be
6 deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices or
7 methods are inadequate, the parties shall within sixty days following the Contracting Officer's
8 response, commence to negotiate in good faith how, and the earliest practicable date by which, the
9 Contractor shall modify said measuring devices and/or measuring methods as required by the
10 Contracting Officer to ensure compliance with subdivision (a) of this Article.

11 (c) All new surface water delivery systems installed within the Contractor's
12 Service Area after the effective date of this Contract shall also comply with the measurement
13 provisions described in subdivision (a) of this Article.

14 (d) The Contractor shall inform the Contracting Officer and the State of California
15 in writing by April 30 of each Year of the monthly volume of surface water delivered within the
16 Contractor's Service Area during the previous Year.

17 (e) The Contractor shall inform the Contracting Officer on or before the twentieth
18 calendar day of each month of the quantity of M&I Water taken during the preceding month.

19 RATES AND METHOD OF PAYMENT FOR WATER

20 7. (a) The Contractor shall pay the United States as provided in this Article for all
21 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance
22 with: (i) the Secretary's then-existing ratesetting policy for M&I Water. Such ratesetting policy shall
23 be amended, modified, or superseded only through a public notice and comment procedure; (ii)

1 applicable Federal Reclamation law and associated rules and regulations, or policies; and (iii) other
2 applicable provisions of this Contract. Payments shall be made by cash transaction, wire transfer, or
3 any other mechanism as may be agreed to in writing by the Contractor and the Contracting Officer.
4 The Rates, Charges, and Tiered Pricing Components applicable to the Contractor upon execution of
5 this Contract are set forth in Exhibit "B", as may be revised annually.

6 (b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and
7 Tiered Pricing Components as follows:

8 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
9 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
10 period October 1, of the current Calendar Year, through September 30, of the following
11 Calendar Year, and the basis for such estimate. The Contractor shall be allowed not less than
12 two months to review and comment on such estimates. On or before September 15 of each
13 Calendar Year, the Contracting Officer shall notify the Contractor in writing of the Charges to
14 be in effect during the period October 1 of the current Calendar Year, through September 30,
15 of the following Calendar Year, and such notification shall revise Exhibit "B."

16 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall
17 make available to the Contractor an estimate of the Rates and Tiered Pricing Components for
18 Project Water for the following Year and the computations and cost allocations upon which
19 those Rates are based. The Contractor shall be allowed not less than two months to review
20 and comment on such computations and cost allocations. By December 31 of each Calendar
21 Year, the Contracting Officer shall provide the Contractor with the final Rates and Tiered
22 Pricing Components to be in effect for the upcoming Year, and such notification shall revise
23 Exhibit "B".

1 (c) At the time the Contractor submits the initial schedule for the delivery of
2 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
3 shall make an advance payment to the United States equal to the total amount payable pursuant to the
4 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be
5 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end
6 of the first month and before the end of each calendar month thereafter, the Contractor shall make an
7 advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the
8 Water Scheduled to be delivered pursuant to this Contract during the second month immediately
9 following. Adjustments between advance payments for Water Scheduled and payments at Rates due
10 for Water Delivered shall be made before the end of the following month; Provided, That any revised
11 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the
12 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with
13 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered
14 to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered
15 to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the
16 Contractor, no additional Project Water shall be delivered to the Contractor unless and until an
17 advance payment at the Rates then in effect for such additional Project Water is made. Final
18 adjustment between the advance payments for the Water Scheduled and payments for the quantities
19 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable
20 but no later than April 30th of the following Year, or sixty days after the delivery of Project Water
21 carried over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the
22 last day of February.

23 (d) The Contractor shall also make a payment in addition to the Rate(s) in

subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the appropriate Tiered Pricing Component then in effect, before the end of the month following the month of delivery. The payments shall be consistent with the quantities of M&I Water Delivered as shown in the water delivery report for the subject month prepared by the Contracting Officer. The water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the adjustment of payments due to the United States for Charges for the next month. Any amount to be paid for past due payment of Charges and the Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

(e) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies; Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall be no more than the otherwise applicable Rate for M&I Water under subdivision (a) of this Article.

(f) Payments to be made by the Contractor to the United States under this Contract may be paid from any revenues available to the Contractor.

(g) All revenues received by the United States from the Contractor relating to the delivery of Project Water or the delivery of non-Project water through Project facilities shall be allocated and applied in accordance with Federal Reclamation law and the associated rules or regulations, and the then current Project ratesetting policy for M&I Water.

(h) The Contracting Officer shall keep its accounts pertaining to the administration of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal standards, so as to reflect the application of Project costs and revenues. The Contracting Officer

1 shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all
2 Project and Contractor expense allocations, the disposition of all Project and Contractor revenues,
3 and a summary of all water delivery information. The Contracting Officer and the Contractor shall
4 enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings,
5 reports, or information.

6 (i) The parties acknowledge and agree that the efficient administration of this
7 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
8 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Components, and/or
9 for making and allocating payments, other than those set forth in this Article may be in the mutual
10 best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify
11 the mechanisms, policies, and procedures for any of those purposes while this Contract is in effect
12 without amending this Contract.

13 (j) (1) Beginning at such time as deliveries of Project Water in a Year exceed
14 eighty percent of the Contract Total, then before the end of the month following the month of
15 delivery the Contractor shall make an additional payment to the United States equal to the
16 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of
17 Water Delivered in excess of eighty percent of the Contract Total, but less than or equal to
18 ninety percent of the Contract Total, shall equal one-half of the difference between the Rate
19 established under subdivision (a) of this Article and the M&I Full Cost Water Rate. The
20 Tiered Pricing Component for the amount of Water Delivered which exceeds ninety percent
21 of the Contract Total shall equal the difference between (i) the Rate established under
22 subdivision (a) of this Article and (ii) the M&I Full Cost Water Rate.

23 (2) Omitted.

1 (3) For purposes of determining the applicability of the Tiered Pricing
2 Components pursuant to this Article, Water Delivered shall include Project Water that the
3 Contractor transfers to others but shall not include Project Water transferred and delivered to
4 the Contractor.

5 (k) For the term of this Contract, Rates under the respective ratesetting policies
6 will be established to recover only reimbursable O&M (including any deficits) and capital costs of the
7 Project, as those terms are used in the then-current Project ratesetting policies, and interest, where
8 appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant
9 Project ratesetting policy. Changes of significance in practices which implement the Contracting
10 Officer's ratesetting policies will not be implemented until the Contracting Officer has provided the
11 Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

12 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
13 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
14 upward or downward in accordance with the then-applicable CVP Ratesetting Policy to reflect the
15 changed costs, if any, incurred by the Contracting Officer in the delivery of the transferred Project
16 Water to the transferee's point of delivery.

17 (m) Omitted.

18 (n) The Contractor asserts that it is not legally obligated to pay any Central Valley
19 Project deficits claimed by the United States to have accrued as of the date of this Contract or deficit
20 related interest charges thereon. By entering into this Contract, the Contractor does not waive any
21 legal rights or remedies that it may have with respect to such disputed issues. Notwithstanding the
22 execution of this Contract, and payments made hereunder, the Contractor may challenge in the
23 appropriate administrative or judicial forums: (1) the existence, the computation, or imposition of any

1 deficit charges accruing during the term of the Existing Contract; (2) interest accruing on any such
2 deficits; (3) the inclusion of any such deficit charges or interest in the Rates; (4) the application by the
3 United States of payments made by the Contractor under its Existing Contract; and (5) the application
4 of such payments in the Rates. The Contracting Officer agrees that the Contractor shall be entitled to
5 the benefit of any administrative or judicial ruling in favor of any other Central Valley Project M&I
6 contractor on any of these issues, and credits for payments heretofore made, provided that, the basis
7 for such ruling is applicable to the Contractor.

8
9 8. Omitted.

10 SALES, TRANSFERS, OR EXCHANGES OF WATER

11 9. (a) The right to receive Project Water provided for in this Contract may be sold,
12 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if
13 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable
14 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this
15 Contract may take place without the prior written approval of the Contracting Officer, except as
16 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be
17 approved absent all appropriate environmental documentation including but not limited to, documents
18 prepared pursuant to the National Environmental Policy Act and the Endangered Species Act. Such
19 environmental documentation should include, as appropriate, an analysis of groundwater impacts and
20 economic and social effects, including environmental justice, of the proposed water transfers on both
21 the transferor and transferee.

22 (b) In order to facilitate efficient water management, among Project Contractors
23 located within the same geographical area, by means of water transfers and to allow the Contractor to

1 participate in an accelerated water transfer program during the term of this Contract, the Contracting
2 Officer shall prepare, as appropriate, all necessary environmental documentation including, but not
3 limited to, documents prepared pursuant to the National Environmental Policy Act and the
4 Endangered Species Act analyzing annual transfers within such geographical areas and the
5 Contracting Officer shall determine whether such transfers comply with applicable law. Following
6 the completion of the environmental documentation, such transfers addressed in such documentation
7 shall be conducted with advance notice to the Contracting Officer, but shall not require prior written
8 approval by the Contracting Officer. Such environmental documentation and the Contracting
9 Officer's compliance determination shall be reviewed every five years and updated, as necessary,
10 prior to the expiration of the then-existing five year period. All subsequent environmental
11 documentation shall include an alternative to evaluate not less than the quantity of Project Water
12 historically transferred within the same geographical area.

13 (c) For a water transfer to qualify under subdivision (b) of this Article, such water
14 transfer must: (i) be for irrigation purposes for lands irrigated within the previous three years, or to be
15 delivered to established wildlife refuges, groundwater basins or for M&I use or for fish and wildlife
16 purposes; (ii) occur within a single Year; (iii) occur between a willing seller and a willing buyer; (iv)
17 convey water through existing Project facilities with no new construction or modifications to Project
18 facilities and be between existing Project Contractors and/or the Contractor and the United States,
19 Department of the Interior; and (v) comply with all applicable Federal, State, and local or tribal laws
20 and requirements imposed for protection of the environment and Indian Trust Assets, as defined
21 under Federal law. Such water transfers must not lead to land conversion.

22 (d) Solely for the purpose of determining whether Section 3405(a)(1)(M) of the
23 CVPIA applies to the Contractor as a transferor or transferee of Project Water, the Contracting

Officer acknowledges that the Contractor is within a county, watershed or other area of origin, as those terms are utilized under California law, of water that constitutes the natural flow of the American River and its tributaries above the confluence of the American and Sacramento Rivers.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of more than One Thousand Dollars shall be refunded at the Contractor's request. In lieu of a refund, any amount of such overpayment at the option of the Contractor, may be credited against amounts to become due to the United States by the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the use of any of the Project Water supply provided for herein. All credits and refunds of overpayments shall be made within thirty days of the Contracting Officer obtaining direction as to how to credit or refund such overpayment in response to the notice to the Contractor that it has finalized the accounts for the Year in which the overpayment was made.

(b) All advances for miscellaneous costs incurred for work requested by the Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when the work has been completed. If the advances exceed the actual costs incurred, the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the additional costs pursuant to Article 25 of this Contract.

TEMPORARY REDUCTIONS--RETURN FLOWS

11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the requirements of Federal law and (ii) the obligations of the United States under existing contracts, or

1 renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make
2 all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this
3 Contract.

4 (b) The Contracting Officer may temporarily discontinue or reduce the quantity of
5 Water Delivered to the Contractor as herein provided for the purposes of investigation, inspection,
6 maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for
7 the delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer will give
8 the Contractor due notice in advance of such temporary discontinuance or reduction, except in case of
9 emergency, in which case no notice need be given; Provided, That the United States shall use its best
10 efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after
11 such reduction or discontinuance, and if requested by the Contractor, the United States will, if
12 possible, deliver the quantity of Project Water which would have been delivered hereunder in the
13 absence of such discontinuance or reduction.

14 (c) The United States reserves the right to all seepage and return flow water
15 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the
16 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States
17 any right as seepage or return flow being put to reasonable and beneficial use pursuant to this
18 Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or
19 under the Contractor. Provided further, that this shall not be construed as claiming for the United
20 States any right to recycled or treated waste water as those terms are used in California law. [This
21 provisio will be subject to further negotiations at the next negotiating session.]

22 CONSTRAINTS ON THE AVAILABILITY OF WATER

23 12. (a) In its operation of the Project, the Contracting Officer will use all reasonable

1 means to guard against a Condition of Shortage in the quantity of water to be made available to the
2 Contractor pursuant to this long-term renewal Contract. In the event the Contracting Officer
3 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
4 Contractor of said determination as soon as practicable.

5 (b) If there is a Condition of Shortage because of errors in physical operations of
6 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
7 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a)
8 of Article 18 of this Contract, no liability shall accrue against the United States or any of its officers,
9 agents, or employees for any damage, direct or indirect, arising therefrom.

10 (c) Omitted.

11 (d) Project Water furnished under this Contract will be allocated in accordance
12 with the then-existing Project M&I Water Shortage Policy. Such policy shall be amended, modified,
13 or superseded only through a public notice and comment procedure.

14 (e) By entering into this Contract, the Contractor does not waive any legal rights or
15 remedies it may have to file or participate in any administrative or judicial proceeding contesting (i)
16 the sufficiency of the manner in which any Project M&I Water Shortage Policy adopted after the
17 effective date of this Contract was promulgated; (ii) the substance of such a policy; or (iii) the
18 applicability of such a policy. By agreeing to the foregoing, the Contracting Officer does not waive
19 any legal defenses or remedies that it may then have to assert in such a proceeding.
20

21 13. Omitted.
22

23 RULES AND REGULATIONS
24

14. The parties agree that the delivery of M&I Water or use of Federal facilities pursuant to this Contract is subject to the applicable provisions of Federal Reclamation law and any applicable rules and regulations promulgated by the Secretary of the Interior under such law.

WATER AND AIR POLLUTION CONTROL

15. The Contractor, in carrying out this Contract, shall comply with all applicable water and air pollution laws and regulations of the United States and the State of California, and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

QUALITY OF WATER

16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to this Contract shall be operated and maintained to enable the United States to deliver Project Water to the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat. 3050) or other existing Federal laws. The United States is under no obligation to construct or furnish water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

(b) The Operation and Maintenance of Project facilities shall be performed in such manner as is practicable to maintain the quality of raw water made available through such facilities at the highest level reasonably attainable as determined by the Contracting Officer. The Contractor shall be responsible for compliance with all State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges, if any, generated through the use of Federal or Contractor facilities or Project Water provided by the Contractor within the Contractor's Service

1 Area.

2 (c) The Contracting Officer and the Contractor shall communicate, coordinate and
3 cooperate with each other with respect to the operation and management of the Project by the United
4 States in accordance with Articles 11 and 19 of this Contract.

5
6 WATER ACQUIRED BY THE CONTRACTOR
7 OTHER THAN FROM THE UNITED STATES

8 17. (a) Omitted.

9 (b) Water or water rights now owned or hereafter acquired by the Contractor, other
10 than from the United States may be stored, conveyed and/or diverted through Project facilities,
11 subject to the completion of appropriate environmental documentation, with the approval of the
12 Contracting Officer and the execution of any contract determined by the Contracting Officer to be
13 necessary, consistent with the following provisions:

14 (1) The Contractor may introduce non-Project water into Project facilities
15 and deliver said water to lands within the Contractor's Service Area, subject to payment to the
16 United States of an appropriate rate as determined by the CVP Ratesetting Policy as amended,
17 modified or superceded from time to time. In addition, if electrical power is required to pump
18 non-Project water through the facilities, the Contractor shall be responsible for obtaining the
19 necessary power and paying the necessary charges therefor.

20 (2) Delivery of such non-Project water in and through Project facilities
21 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project
22 purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water
23 available to other Project water service contractors; (iii) interfere with the delivery of
24 contractual water entitlements to any other Project water service contractors; or (iv) interfere

1 with the physical maintenance of the Project facilities; Provided, that nothing in this Article is
2 intended to preclude the United States from passing the Contractor's water rights water
3 through Project storage facilities to the extent required to satisfy the Contractor's water rights
4 that are senior to those of the Project under the applicable provisions of California water law.
5 Provided further, that the United States has determined that the delivery of non-Project water
6 in and through Project facilities pursuant to Warren Act Contract No. _____
7 between the United States and the Contractor, as it now exists and may be amended, extended
8 or renewed in the future, satisfies the requirements of this Article.

9 (3) The United States shall not be responsible for control, care or
10 distribution of the non-Project water before it is introduced into or after it is delivered from
11 the Project facilities. The Contractor hereby releases and agrees to defend and indemnify the
12 United States and their respective officers, agents, and employees, from any claim for damage
13 to persons or property, direct or indirect, arising out of or relating to the Contractor's or its
14 officers', employees', agents' or assigns', act of (i) extracting or diverting non-Project water
15 from any source, or (ii) diverting such non-Project water into Project facilities.

16 (4) Diversion of such non-Project water into Project facilities shall be
17 consistent with all applicable laws, and if involving groundwater, consistent with any
18 applicable groundwater management plan for the area from which it was extracted.

19 (5) After Project purposes are met, as determined by the Contracting
20 Officer, the United States and the Contractor shall share priority to utilize the remaining
21 capacity of the facilities declared to be available by the Contracting Officer for conveyance
22 and transportation of non-Project water prior to any such remaining capacity being made
23 available to non-Project Contractors.

OPINIONS AND DETERMINATIONS

18. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of either party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by either party shall be provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is intended to or shall affect or alter the standard of judicial review applicable under federal law to any opinion or determination implementing a specific provision of federal law embodied in statute or regulation.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the provisions of this Contract, the laws of the United States and of the State of California, and the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

COORDINATION AND COOPERATION

19. (a) In order to further their mutual goals and objectives, the Contracting Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and with other affected Project Contractors, in order to improve the operation and management of the Project. The communication, coordination, and cooperation regarding operations and management shall include, but not be limited to, any action which will or may materially affect the quantity or quality of Project Water supply, the allocation of Project Water supply, and Project financial matters including, but not limited to, budget issues. The communication, coordination, and cooperation provided for hereunder

1 shall extend to all provisions of this Contract. Each party shall retain exclusive decision making
2 authority for all actions, opinion, and determinations to be made by the respective party.

3 (b) Within one hundred twenty days following the effective date of this Contract,
4 the Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to meet
5 with interested Project Contractors to develop a mutually agreeable, written Project-wide process,
6 which may be amended as necessary separate and apart from this Contract. The goal of this process
7 shall be to provide, to the extent practicable, the means of mutual communication and interaction
8 regarding significant decisions concerning Project operation and management on a real-time basis.

9 (c) In light of the factors referred to in subdivision (b) of Article 3 of this Contract,
10 it is the intent of the Secretary to improve water supply reliability. To carry out this intent:

11 (1) The Contracting Officer will, at the request of the Contractor, assist in
12 the development of integrated resource management plans for the Contractor. Further, the
13 Contracting Officer will, as appropriate, seek authorizations for implementation of
14 partnerships to improve water supply, water quality, and reliability.

15 (2) The Secretary will, as appropriate, pursue program and project
16 implementation and authorization in coordination with Project Contractors to improve the
17 water supply, water quality, and reliability of the Project for all Project purposes.

18 (3) The Secretary will coordinate with Project Contractors and the State of
19 California to seek improved water resource management.

20 (4) The Secretary will coordinate actions of agencies within the
21 Department of the Interior that may impact the availability of water for Project purposes.

22 (5) The Contracting Officer shall periodically, but not less than annually,
23 hold division level meetings to discuss Project operations, division level water management

activities, and other issues as appropriate.

(d) Without limiting the contractual obligations of the Contracting Officer under the other Articles of this Contract, nothing in this Article shall be construed to limit or constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to protect health, safety, or physical integrity of structures or facilities.

CHARGES FOR DELINQUENT PAYMENTS

20. (a) The Contractor shall be subject to interest, administrative and penalty charges on delinquent installments or payments. When a payment is not received by the due date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes sixty days delinquent, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent ninety days or more, the Contractor shall pay an additional penalty charge of six (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of one-half of one percent per month prescribed by Section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied, first to the penalty, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

EQUAL OPPORTUNITY

21. During the performance of this Contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during

1 employment, without regard to their race, color, religion, sex, or national origin. Such action shall
2 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;
3 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of
4 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in
5 conspicuous places, available to employees and applicants for employment, notices to be provided by
6 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

7
8 (b) The Contractor will, in all solicitations or advertisements for employees placed
9 by or on behalf of the Contractor, state that all qualified applicants will receive consideration for
10 employment without discrimination because of race, color, religion, sex, or national origin.

11
12 (c) The Contractor will send to each labor union or representative of workers with
13 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
14 provided by the Contracting Officer, advising the said labor union or workers' representative of the
15 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and
16 shall post copies of the notice in conspicuous places available to employees and applicants for
17 employment.

18
19 (d) The Contractor will comply with all provisions of Executive Order No. 11246
20 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary
21 of Labor.

22
23 (e) The Contractor will furnish all information and reports required by said
24 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or
25 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer
26 and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,
27 regulations, and orders.

28
29 (f) In the event of the Contractor's noncompliance with the nondiscrimination
30 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
31 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible
32 for further Government contracts in accordance with procedures authorized in said amended
33 Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said
34 Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided
35 by law.

36
37 (g) The Contractor will include the provisions of paragraphs (a) through (g) in
38 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
39 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such

provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

22. (a) The obligation of the Contractor to pay the United States as provided in this Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligations to the Contractor.

(b) The payment of charges becoming due hereunder is a condition precedent to receiving benefits under this Contract. The United States shall not make water available to the Contractor through Project facilities during any period in which the Contractor may be in arrears in the advance payment of water rates due the United States. The Contractor shall not furnish water made available pursuant to this Contract for lands or parties which are in arrears in the advance payment of water rates levied or established by the Contractor.

(c) With respect to subdivision (b) of this Article, the Contractor shall have no obligation to require advance payment for water rates which it levies.

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as well as with their respective implementing regulations and guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(b) These statutes require that no person in the United States shall, on the grounds of race, color, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the Contractor

1 agrees to immediately take any measures necessary to implement this obligation, including permitting
2 officials of the United States to inspect premises, programs, and documents.

3
4 (c) The Contractor makes this agreement in consideration of and for the purpose of
5 obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial
6 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including
7 installment payments after such date on account of arrangements for Federal financial assistance
8 which were approved before such date. The Contractor recognizes and agrees that such Federal
9 assistance will be extended in reliance on the representations and agreements made in this Article,
10 and that the United States reserves the right to seek judicial enforcement thereof.

11
12
13 24. Omitted.

14 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

15 25. In addition to all other payments to be made by the Contractor pursuant to this
16 Contract, the Contractor shall pay to the United States, within sixty days after receipt of a bill and
17 detailed statement submitted by the Contracting Officer to the Contractor for such specific items of
18 direct cost incurred by the United States for work requested by the Contractor associated with this
19 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
20 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in
21 writing in advance by the Contractor. This Article shall not apply to costs for routine contract
22 administration.

23 WATER CONSERVATION

24 26. (a) Prior to the delivery of water provided from or conveyed through Federally
25 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
26 implementing an effective water conservation and efficiency program based on the Contractor's water
27 conservation plan that has been determined by the Contracting Officer to meet the conservation and
28 efficiency criteria for evaluating water conservation plans established under Federal law. The water

1 conservation and efficiency program shall contain definite water conservation objectives, appropriate
2 economically feasible water conservation measures, and time schedules for meeting those objectives.
3 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
4 continued implementation of such water conservation program. In the event the Contractor's water
5 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
6 Article 26 of this Contract have not yet been determined by the Contracting Officer to meet such
7 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the
8 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently
9 works with the Contracting Officer to obtain such determination at the earliest practicable date, and
10 thereafter the Contractor immediately begins implementing its water conservation and efficiency
11 program in accordance with the time schedules therein.

12 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
13 Article 3 of this Contract equal or exceed two thousand acre-feet per Year, the Contractor shall
14 implement the Best Management Practices identified by the time frames issued by the California
15 Urban Water Conservation Council for such M&I Water unless any such practice is determined by
16 the Contracting Officer to be inappropriate for the Contractor.

17 (c) The Contractor shall submit to the Contracting Officer a report on the status of
18 its implementation of the water conservation plan on the reporting dates specified in the then existing
19 conservation and efficiency criteria established under Federal law.

20 (d) At five-year intervals, the Contractor shall revise its water conservation plan to
21 reflect the then current conservation and efficiency criteria for evaluating water conservation plans
22 established under Federal law and submit such revised water management plan to the Contracting
23 Officer for review and evaluation. The Contracting Officer will then determine if the water

1 conservation plan meets Reclamation's then current conservation and efficiency criteria for
2 evaluating water conservation plans established under Federal law.

3 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall
4 be described in the Contractor's water conservation plan. Such Water Conservation Plan shall
5 demonstrate sufficient lawful uses exist in the Contractor's Service Area so that using a long-term
6 average, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in
7 compliance with Reclamation Law.

8 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

9 27. Except as specifically provided in Article 17 of this Contract, the provisions of this
10 Contract shall not be applicable to or affect non-Project water or water rights now owned or hereafter
11 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such
12 water shall not be considered Project Water under this Contract. In addition, this Contract shall not
13 be construed as limiting or curtailing any rights which the Contractor or any water user within the
14 Contractor's Service Area acquires or has available under any other contract pursuant to Federal
15 Reclamation law.

16
17 28. Omitted.

18 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

19
20 29. The expenditure or advance of any money or the performance of any obligation of the
21 United States under this Contract shall be contingent upon appropriation or allotment of funds.
22 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
23 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
24 or allotted.
25

BOOKS, RECORDS, AND REPORTS

30. (a) The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including: the Contractor's financial transactions, water supply data, and Project land and right-of-way agreements; water use data; and other matters that the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

(b) Notwithstanding the provisions of subdivision (a) of this Article, no books, records, or other information shall be requested from the Contractor by the Contracting Officer unless such books, records, or information are reasonably related to the administration or performance of this Contract. Any such request shall allow the Contractor a reasonable period of time within which to provide the requested books, records, or information.

(c) Omitted.

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

31. (a) The provisions of this Contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest therein shall be valid until approved in writing by the Contracting Officer.

(b) The assignment of any right or interest in this Contract by either party shall not interfere with the rights or obligations of the other party to this Contract absent the written concurrence of said other party.

(c) The Contracting Officer shall not unreasonably condition or withhold approval of any proposed assignment.

1 SEVERABILITY

2 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor
3 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
4 association or other form of organization whose primary function is to represent parties to Project
5 contracts, brings an action in a court of competent jurisdiction challenging the legality or
6 enforceability of a provision included in this Contract and said person, entity, association, or
7 organization obtains a final court decision holding that such provision is legally invalid or
8 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
9 parties to this Contract shall use their best efforts to (i) within thirty days of the date of such final
10 court decision identify by mutual agreement the provisions in this Contract which must be revised
11 and (ii) within three months thereafter promptly agree on the appropriate revision(s). The time
12 periods specified above may be extended by mutual agreement of the parties. Pending the completion
13 of the actions designated above, to the extent it can do so without violating any applicable provisions
14 of law, the United States shall continue to make the quantities of Project Water specified in this
15 Contract available to the Contractor pursuant to the provisions of this Contract which were not found
16 to be legally invalid or unenforceable in the final court decision.

17 RESOLUTION OF DISPUTES

18 33. Should any dispute arise concerning any provisions of this Contract, or the parties'
19 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
20 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
21 any matter to Department of Justice, the party shall provide to the other party thirty days' written
22 notice of the intent to take such action; Provided, That such notice shall not be required where a delay
23 in commencing an action would prejudice the interests of the party that intends to file suit. During

1 the thirty-day notice period, the Contractor and the Contracting Officer shall meet and confer in an
2 attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or
3 abridge any right or remedy that the Contractor or the United States may have.

4 OFFICIALS NOT TO BENEFIT

5
6 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
7 Contractor shall benefit from this Contract other than as a water user or landowner in the same
8 manner as other water users or landowners.
9

10 CHANGES IN CONTRACTOR'S SERVICE AREA

11
12 35. (a) While this Contract is in effect, no change may be made in the Contractor's
13 Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
14 except upon the Contracting Officer's written consent.
15

16 (b) Within thirty days of receipt of a request for such a change, the Contracting
17 Officer will notify the Contractor of any additional information required by the Contracting Officer
18 for processing said request, and both parties will meet to establish a mutually agreeable schedule for
19 timely completion of the process. Such process will analyze whether the proposed change is likely to:
20 (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the
21 Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-
22 constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project
23 Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with
24 the National Environmental Policy Act and the Endangered Species Act. The Contractor will be
25 responsible for all costs incurred by the Contracting Officer in this process, and such costs will be
26 paid in accordance with Article 25 of this Contract.

1 FEDERAL LAWS

2 36. By entering into this Contract, the Contractor does not waive its rights to contest the
3 validity or application in connection with the performance of the terms and conditions of this
4 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
5 terms and conditions of this Contract unless and until relief from application of such Federal law or
6 regulation to the implementing provision of the Contract is granted by a court of competent
7 jurisdiction.

8 NOTICES
9

10 37. Any notice, demand, or request authorized or required by this Contract shall be
11 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
12 to the Area Manager, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, California 95630-
13 1799, and on behalf of the United States, when mailed, postage prepaid, or delivered to the City
14 Council of the City of Roseville, 2005 Hilltop Circle, Roseville, CA 95747. The designation of the
15 addressee or the address may be changed by notice given in the same manner as provided in this
16 Article for other notices.
17

18 CONFIRMATION OF CONTRACT
19

20 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a
21 decree of a court of competent jurisdiction of the State of California, confirming the execution of this
22 Contract. The Contractor shall furnish the United States a certified copy of the final decree, the
23 validation proceedings, and all pertinent supporting records of the court approving and confirming
24 this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

1 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first
2 above written.

3
4 Approved as to legal sufficiency.

THE UNITED STATES OF AMERICA

5
6
7 By:_____

By:_____

8 Regional Director, Mid-Pacific Region
9 Bureau of Reclamation

10
11
12
13 Approved as to form.

THE CITY OF ROSEVILLE

14
15
16
17 By:_____

18 City Attorney

By:_____

City Manager

19
20
21 Attest:

22
23
24
25 By:_____

26 City Clerk

[R.O. Draft 10/03-2003](#)

[R.O. Draft 09/24-2003](#)

Contract No.14-06-200-3474A - LTR1

EXHIBIT A

[Map or Description of Service Area]

R.O. Draft 10/03-2003

R.O. Draft 09/24-2003

Contract No.14-06-200-3474A - LTR1

EXHIBIT B
2003 Water Rates and Charges
CONTRACT NUMBER: 14-06-200-3474A – LTR1
CITY OF ROSEVILLE

	2003 Rates Per Acre-Foot <u>M&I</u>
COST-OF-SERVICE (COS) RATE (1 st Tier - ≤80% of Contract Total)	\$20.47
2ND TIER [>80% <90% of Contract Total] (M&I Full Cost Rate + COS rate/ 2)	\$23.31
3RD TIER [> 90% of Contract Total] (M&I Full Cost Rate)	\$26.14
M&I FULL COST RATE: Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in Section 202 (3) (B) and (C) of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended:	\$26.14
SURCHARGES UNDER P.L. 102-575 TO RESTORATION FUND* Restoration Payments [3407(d)(2)(A)]	\$15.38

* The surcharges are payments in addition to the water rates and are determined pursuant to Title XXXIV of P.L. 102-575. Restoration Fund surcharges under P.L. 102-575 are on a fiscal year basis (10/1 -9/30).

Note: Additional detail of rate components is available on the Internet at <http://www.mp.usbr.gov/cvpwaterrates/>.